UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,292	06/30/2003	Marcelo Gomes de Oliveira	2003P04482US	2973

7590 11/15/2007	EXAMINER
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830	OSMAN, RAMY M

ART UNIT	PAPER NUMBER
2157	

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11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/611,292	GOMES DE OLIVEIRA, MARCELO
	Examiner	Art Unit	
	Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 September 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 17-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 17-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Status of Claims

1.   This action is responsive to amendment filed on September 4, 2007, where Applicant

amended claims 1-3,7,12,13,15,17,18,21, and cancelled claim 16. Claims 1-15 and 17-21 remain

pending.

Response to Arguments

2.   Applicant's arguments, filed 9/4/2007, with respect to the rejection(s) of claim(s) 1-21

under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been

withdrawn. However, upon further consideration, a new ground(s) of rejection is made under

103(a) in view of Shaffer in view of Ju as outlined below. Applicants arguments are moot in

view of the new grounds of rejection.

3.   Previous 112 second paragraph rejections are withdrawn.

Claim Objections

4.   Claims 1,8,13,18,21 objected to because of the following informalities: In claim 1 for

example, on line 8 change "and a current..." to "and **based** on a current...". Appropriate

correction is required.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 1-15 and 17-21 rejected under 35 U.S.C. 103(a) as being unpatentable over**

Shaffer et al (US Patent No 6,976,055) in view of Ju et al (US Patent No 6,744,741).

7.   In reference to claim 1, Shaffer teaches a method for selecting a media processor to host a

new conference, comprising:

receiving an indication of a need for a media processor for a new conference (column 8

lines 62-67);

determining, for each of a plurality of media processors under control of a multipoint

controller, a number of additional participants that can be supported (column 8 line 64 – column

9 line 10); and

determining one of said plurality of media processors to host said new conference based,

at least in part, on said number of additional participants that each of said plurality of media

processors can support (column 8 line 64 – column 9 line 13 and column 9 lines 37-67).

Shaffer fails to explicitly teach where the determining the host is also based upon a

current CPU utilization percentage for each of said plurality of media processors. However, Ju

teaches allocating new conferences to a media processor based upon processing resources that

are below an acceptable threshold level for the purpose of monitoring and maintaining a plurality

of media conferences (column 5 lines 49-61, column 6 lines 6-16 and column 7 lines 50-65).

It would have been obvious for one of ordinary skill in the art to modify Shaffer where the determining the host is also based upon a current CPU utilization percentage for each of said plurality of media processors as per the teachings of Ju for the purpose of monitoring and maintaining a plurality of media conferences.

8.   In reference to claim 2, Shaffer teaches the method of claim 1, wherein said determining, for each of a plurality of media processors under control of a multipoint controller, a number of additional participants that can be supported, includes determining a value representative of a current number of conference participants for each of said plurality of media processors (column 8 line 64 – column 9 line 13).

9.   In reference to claim 3, Shaffer teaches the method of claim 2, wherein said determining, for each of a plurality of media processors under control of a multipoint controller, a number of additional participants that can be supported, includes determining a value representative of a number of conference participants that may be supported by said multipoint processor before reaching the value representative of a current CPU utilization percentage for each of said plurality of media processors (Ju, column 6 lines 5-30).

10.   In reference to claim 4, Shaffer teaches the method of claim 1, wherein said receiving an indication of a need for a media processor for a new conference includes receiving a request for allocation of a media processor for said new conference (column 8 lines 62-67).

11.   In reference to claim 5, Shaffer teaches the method of claim 1, further comprising: providing data indicative of said one of said plurality of media processors (column 8 line 64 – column 9 line 13).

12.   In reference to claim 6, Shaffer teaches the method of claim 1, further comprising:

allocating said one of said plurality of media processors to host said new conference (column 8 line 64 – column 9 line 13).

13.   In reference to claim 7, Shaffer teaches the method of claim 1, further comprising:

determining a value representative of a maximum CPU utilization percentage associated with each of said plurality of media processors (Ju, column 5 lines 49-61, column 6 lines 6-16 and column 7 lines 50-65).

14.   In reference to claim 8, Shaffer teaches a method for selecting a media processor to host a new conference, comprising:

receiving an indication of a need for a media processor for a new conference (column 8 lines 62-67);

determining, for each of a plurality of media processors under the control of a multipoint controller, a current number of conference participants and a current CPU utilization (column 8 line 64 – column 9 line 13); and

determining one of said plurality of media processors to host said new conference based, at least in part, on said current number of conference participants and current CPU utilization for each of said plurality of media processors (column 8 line 64 – column 9 line 13 and column 9 lines 37-67).

Shaffer fails to explicitly teach where the determining the host is also based upon a current CPU utilization percentage for each of said plurality of media processors. However, Ju teaches allocating new conferences to a media processor based upon processing resources that

are below an acceptable threshold level for the purpose of monitoring and maintaining a plurality

of media conferences (column 5 lines 49-61, column 6 lines 6-16 and column 7 lines 50-65).

It would have been obvious for one of ordinary skill in the art to modify Shaffer where

the determining the host is also based upon a current CPU utilization percentage for each of said

plurality of media processors as per the teachings of Ju for the purpose of monitoring and

maintaining a plurality of media conferences.

15.   In reference to claim 9, Shaffer teaches the method of claim 8, wherein said determining

one of said plurality of media processors to host said new conference includes selecting one of

said plurality of media processors based on each of said plurality of media processors ability to

support participants in said new conference (column 8 line 64 – column 9 line 13).

16.   In reference to claim 10, Shaffer teaches the method of claim 8, wherein said determining

one of said plurality of media processors to host said new conference includes selecting one of

said plurality of media processors that can support a highest number of participants in said new

conference (column 8 line 64 – column 9 line 13).

17.   In reference to claim 11, Shaffer teaches the method of claim 8, wherein said determining

one of said plurality of media processors to host said new conference includes determining a

number of new participants that can be supported by each of said plurality of media processors

(column 8 line 64 – column 9 line 13).

18.   In reference to claim 12, Shaffer teaches the method of claim 11, wherein said

determining a number of new participants that can be supported by each of said plurality of

media processors includes determining a value representative of a number of conference

participants that may be supported by the multipoint processor before reaching the value

representative of a current CPU utilization percentage for each of said plurality of media

processors (Ju, column 6 lines 5-30).

19.   In reference to claims 13-15,17-20, claims 13-15,17-20 are system claims that correspond

to the method claims of claims 1-12. Therefore, claims 13-15,17-20 are rejected based upon the

same rationale as used to reject claims 1-12.

20.   In reference to claim 21, claim 21 is an article of manufacture claims that corresponds to

the method of claim 1. Therefore, claim 21 is rejected based upon the same rationale as used to

reject claim 1.

Conclusion

21.   The above rejections are based upon the broadest reasonable interpretation of the claims.

Applicant is advised that the specified citations of the relied upon prior art, in the above

rejections, are only representative of the teachings of the prior art, and that any other supportive

sections within the entirety of the reference (including any figures, incorporation by references,

claims and priority documents) is implied as being applied to teach the scope of the claims.

22.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
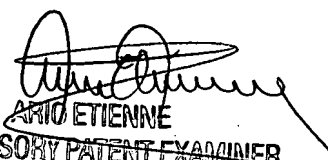
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
November 9, 2007

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